

## LABOUR DEPARTMENT

The 15th June, 1972

No. 6531-4Lab-72/26261.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana, is pleased to publish the following award of the Labour Officer, cum-Conciliation Officer, Haryana, Gurgaon in respect of the dispute between the workmen and the management of M/S B.E. Pumps Pvt. Ltd., Bahadurgarh (Rohtak).

IN THE MATTER OF INDUSTRIAL DISPUTE BETWEEN THE MANAGEMENT OF M/S P. B. E. PUMPS (P) LTD., M. I. E. BAHADURGARH AND SHRI KARAN SINGH, WORKMAN THROUGH BAHADURGARH POTTERIES & GENERAL LABOUR UNION, BAHADURGARH.

Present:—

Shri Karan Singh workman along with his authorised representative, Shri Rajinder Singh Dahiya.

Shri C. Prasad Jha, Works Manager, for the respondent.

## AWARD

I was appointed as arbitrator under section 10-A of the Industrial Disputes Act, 1947,—vide Haryana Government notification No. ID/AMB/248/11330-34, dated 3rd April, 1972, to arbitrate on the dispute.

“Whether the dismissal/termination/retranchment of Shri Karan Singh is on merits and justified? If not, to what relief he is entitled?”

The dispute was between the management of M/s B. E. Pumps (P) Ltd., M. I. E. Bahadurgarh and Shri Karan Singh, workman. During the course of pleadings the parties, have mutually agreed to the following settlement:—

“That Shri Karan Singh shall be treated as simply discharged from service w.e.f. 15th December, 1971. The management shall pay to him an amount equivalent to two months wages in addition to his earned wages if any due and also the wages in lieu of earned leave if any due against each and every type of his claim including the claim of reinstatement or re-employment. Payment shall be made on 10th May, 1972.

Dated 29th April, 1972

Signed in my presence.

Sd/- Ram Sarup,

Labour Officer-cum-  
Conciliation Officer.

Gurgaon (Arbitrator)

I give above award as the arbitration agreement award.

Dated Bahadurgarh, the 29th April, 1972

Signatures of the representatives of the parties.

1. Sd - Rajinder Singh Dahiya.

2. Sd/- Karan Singh,

3. Sd/- Shri C. Prasad Jha.

(Sd.) . . . .

Labour Officer cum-  
Conciliation Officer,  
Gurgaon (Arbitrator).

No. 6558-4Lab-72/26257.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Bermaco Fabricators, Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 8 of 1971

between

THE WORKMEN AND THE MANAGEMENT OF M/S BERMACO FABRICATORS, FARIDABAD.

Present :

Shri Krishan Lal for General Labour Union.

Shri Darshan Singh, for Engineering Workers Union.

Shri S. L. Gupta and Sh. B. R. Grover, for the management.

## AWARD

The workmen of M/s Bermaco Fabricators, Faridabad raised several demands such as fixation of grades and scales of pay, grant of dearness allowance, supply of uniforms, and grant of Bonus for the year 1968-69,

1969-70 which were not accepted by the management. This gave rise to an industrial dispute. Conciliation proceedings were initiated but without any success. On receipt of the failure report from the Conciliation Officer, the Governor of Haryana, in exercise of the powers conferred under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the dispute for adjudication to this Tribunal,—*vide* order No. ID/FD/554-C-70/3041-45, dated 22nd January, 1971. The terms of reference being as given under :—

- (1) Whether workmen are entitled to the grant of dearness allowance ? If so, with what details and from which date ?
- (2) Whether workmen are entitled to the grant of bonus for the year 1968-69 and 1969-70. If so, with what details ?
- (3) Whether workmen are entitled to uniforms ? If so ; with what details and from which date ?
- (4) Whether grades and scales of pay of the workmen should be fixed ? If so, with what details and from which date ?

On receipt of the order of reference usual notices were given to the parties. The statement of claim on behalf of the workmen was filed on 29th March, 1971 under the signatures of Shri Roshan Lal Sharma, authorised representative who had given the demand notice, dated 20th October, 1970 leading to the present reference. On the same day Shri Darshan Singh, President, Faridabad Engineering Mazdoor Union moved an application for leave to join as a party in the case which was opposed by the management. Shri Darshan Singh produced a letter of authority signed by as many as 31 workers. Shri Roshan Lal did not put in his appearance after filing the statement of claim. Taking into consideration the facts on record and after hearing arguments on both sides Shri Darshan Singh was allowed to join as a party and represent the concerned workmen in the proceedings. He had filed the statement of claim on behalf of the workmen along with the above application reiterating the demands, the subject matter of the reference.

The management filed the written statement on 8th July, 1971 contesting all the demands raised by the workmen pleading *inter alia* that there was no industrial dispute between the parties nor had it been properly espoused by a substantial number of workmen. It was further pleaded that the factory had since been closed and the workmen had settled their accounts :—

On the above pleadings of the parties the following issues arose for determination:—

- (1) Whether the respondent factory has been closed ? If so, from what date and with what effect ? (on management).
- (2) Whether the General Labour Union, Faridabad had no *locus standi* to raise the present dispute ? (on management).
- (3) Whether the workmen are entitled to the grant of D.A. ? If so ; with what details and from which date ?
- (4) Whether workmen are entitled to the grant of bonus for the year 1968-69 and 1969-70. If so, with what details ?
- (5) Whether workmen are entitled to uniforms ? If so ; with what details and from which date ?
- (6) Whether grades and scales of pay of the workmen should be fixed ? If so, with what details and from which date ?

The management has examined one witness, namely, Shri Raj Pal Nayyer, Partner, who has deposed that the factory which was started in April, 1969 had to be closed with effect from 1st of June, 1971 because the establishment was running into losses. He has further stated that the workmen had been relieved of their duties in full and final settlement of their claims in the presence of the union leader Shri Chaman Lal Oberoi. According to this witness after the closure of the factory only a skeleton staff of two clerks and two watchmen had been retained to wind up the business and no manufacturing process was carried on since 1st of June, 1971. In answer to a Court question he has replied that no bonus had been paid to the workmen for the year 1968-69, 1969-70 because the establishment had been running into losses since had started business in April, 1959.

The management has further placed reliance upon documentary evidence consisting of the payment voucher Ex. M-1 to Ex. M-29, balance sheets and profit and loss account statement for the period ending 31st August, 1969 and 31st August, 1970 Exs, M-30, M-31, closure notice Ex. M-32.

No evidence has been led on behalf of the workmen except for the statement of one Shri Krishan Lal, General Secretary of General Labour Union, Faridabad who after visiting the premises has admitted in so many words that the factory had since been closed. The workmen and their authorised representatives Sarvshri Roshan Lal and Darshan Singh have even elected not to appear and pursue the demands of the workmen.

I have heard the learned representatives of the management and considered the facts on record. The closure of the factory with effect from 1st of June, 1971 has pleaded by the management is an established fact. The statement on oath of Shri Raj Pal Nayyer, Partner, of the concern finds full support in the testimony of the union leader Shri Krishan Lal. The closure of the factory was brought about after issuing due notice copy Ex. M-32 on record. No workmen has come forward to make a statement on oath to rebut these facts. Issue No. 1 is, therefore, decided in favour of the management.

## Issue No. 2

The burden of this issue was on the workmen which they have hopelessly failed to discharge. There is no evidence whatever oral or documentary, to show that the General Labour Union Faridabad enjoyed any representative character so far as the workmen in the present establishment, were concerned. No membership forms or other necessary documents have been produced nor has any union leader come into the witness to make a statement in this behalf. The issue is accordingly decided against the workmen.

## Issues Nos. 3, 5 and 6

Issues Nos. 3, 5 and 6, may safely be taken up together as these issues do not call for much discussions. In view of my above findings on issue No. 1 regarding the closure of the factory with effect from 1st June, 1971. As proved by the management the concerned workmen have all settled their account and left service on receipt of their dues and there being no worker on rolls at present, the question of fixation of grades and scales of pay, grant of dearness allowance and supply of uniforms to them does not arise. The issues are held accordingly against the workmen.

## Issue No. 4

Then remains, the question of grant of bonus for the year 1968-69, 1969-70 covered by issue No. 4. Since the workmen had claimed bonus for the period prior to the closure of the factory they could be entitled to the same inspite of closure of the factory with effect from 1st of June, 1971. But they have not made out any case for the grant of this relief either. The management on the other hand, has succeeded in establishing from oral as well as documentary evidence discussed above that it had been running into losses continuously from the start of the business in 1969 and there was no allocable surplus to justify the claim of the workmen for the grant of bonus for the said period. The workmen have not cared to bring on record any material to refute the above contention of the management. Issue No. 4, is, therefore decided against the workmen and it is held that they are not entitled to any bonus for the year 1968-69, 1969-70.

That disposes off the entire case ; no other point arises for consideration. In view of my above findings the workmen are not entitled to any relief. The award is made accordingly but there shall be no order as to costs.

O. P. SHARMA,

Presiding Officer,  
Industrial Tribunal, Haryana, Faridabad.

Dated the 5th June, 1972.

No. 652, dated the 5th June, 1972.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,  
Industrial Tribunal, Haryana, Faridabad.

Dated the 5th June, 1972.

No. 6560-4Lab-72/26263.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workmen and the management of M/s Rubber India General Industries, Bahadurgarh.

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, HARYANA,  
ROHTAK

Reference No. 89 of 1970

*between*

SHRI RAM NARESH C/O BAHADURGARH POTTERIES & GENERAL LABOUR  
UNION, BAHADURGARH AND THE MANAGEMENT OF M/S RUBBER  
INDIA GENERAL INDUSTRIES, MODERN FACTORY AREA, BAHADURGARH

*Present :*

Shri Rajinder Singh, for the applicant.

Shri Rati Ram, for the management.

## AWARD

The following Industrial Dispute was referred to the Labour Court, Faridabad,—*vide* Haryana Government notification No. ID/RK/132A-69/13972-76, dated 14th May, 1969 :—

“Whether the termination of services of Shri Ram Naresh was justified and in order ? If not, to what relief is he entitled ?”

The Labour Court Faridabad ceased to function by reason of the judgement, dated the 2nd September, 1969 of the Punjab and Haryana High Court given in Civil Writ No. 1129 which was filed by M/s Gedore Tools (½) Ltd., Faridabad, the Government of Haryana constituted another Labour Court,—*vide* Gazette, notification No. 3864-ASO(E)-Lab-70, dated the 8th May, 1970 and transferred all the pending cases to this Court alongwith the present case,—*vide* Gazette notification No. 6091-E-Lab-70/22387, dated the 31st July, 1970.

On receipt of the reference usual notices were issued to the parties. The plea of the management is that the claimant absented himself from duty with effect from 25th December, 1968 to 3rd January, 1969 without any leave and so he automatically lost his lien on his post. The representative of the management Shri Rati Ram has made a statement to this effect on oath. The representative of the workman has made a statement that the workman had not contacted him and he has no instruction to proceed further with the case. Since the workman has not led any evidence to prove that the termination of his service was not justified and in view of the statement of the representative of the management I hold that the workman himself was responsible for the termination of his services and he is not entitled to any relief, I give my award accordingly. No order as to costs.

P. N. THUKRAL,

Presiding Officer,  
Labour Court, Haryana, Rohtak.

Dated 9th June, 1972.

No. 1120, dated Rohtak, the 9th June, 1972

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,

Presiding Officer,  
Labour Court, Haryana, Rohtak.

No. 6556-4Lab-72/26457.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s. Capital Industrial Corporation, Industrial Area, Faridabad.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No. 96 of 1971

*between*

THE WORKMEN AND THE MANAGEMENT OF M/S CAPITAL INDUSTRIAL  
CORPORATION, INDUSTRIAL AREA, FARIDABAD

*Present:—*

Shri R. N. Roy, for the workmen.

Nemo, for the management.

## AWARD

The Governor of Haryana in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred for adjudication to this

Tribunal the following disputes between the management of M/s. Capital Industrial Corporation 17-C, Industrial Area, Faridabad and some of its workmen.

Whether the retrenchment of the following workmen is justified and in order ?  
If not, to what relief they are entitled ?

- |                    |                          |
|--------------------|--------------------------|
| (1) Shyam Lal      | .. Tube machine operator |
| (2) Badri Parshad  | .. Mixture operator      |
| (3) Hazi Bux       | .. Machineman            |
| (4) Sita Ram Yadav | .. Tube operator         |
| (5) Sita Ram Tuli  | .. Moulder               |

On receipt of the order of reference, usual notices were given to the parties and they were required to put in their respective written statements. The statement of claim on behalf of the workmen was filed on 19th November, 1971 reiterating their demands for reinstatement and back wages raised earlier through the demand notice, dated 6th April, 1971 with the allegations that the action taken by the management in bringing them under retrenchment was unfair, improper, unjustified, malafide and illegal.

None has appeared on behalf of the management inspite of several adjournments in the case. The factory being since reported to be closed and there being no other person excepting the Chowkidar. Service of any responsible officer in the factory premises was not possible. Notices were therefore issued to the partners at their residential addresses. One of the partners Shri R. Dalmia, residing at Faridabad having evaded service a duplicate copy of the notice was got affixed at the door of the dwelling house which in the circumstances was sufficient service. The notice issued to the other partner Shri Gian Chand at his Delhi address under registered cover has been delivered as per the A.D. receipt on record. However, neither partners has appeared in person or through authorised representative to file the written statement and contest the above claim of the workmen. I have, therefore, heard the workmen and considered their statements on oath along with the demand notice and the statement of claim filed by them.

As per the statements on oath made by the concerned workmen, they had all put in service for more than 1 year before the impugned orders of their retrenchment were made by the management on the ground of closure of the factory. According to them the factory had been closed with effect from 25th February, 1971 but had been restarted from 18th March, 1971 when it had worked for a period of one month but none of them was called for duty. In answer to the Court question, however, every one of the concerned workmen has admitted in so many words that the factory had been finally closed with effect from April, 1971 and thereafter there had been no work in the factory and none on the rolls excepting the Chowkidar. The factory being thus admittedly closed, the question of the reinstatement of the workmen does not arise. Their main grievance is that they had not been paid their dues including one months notice pay, retrenchment compensation, wages in lieu of earned leave and also their wages for the month of February, 1971. The management had no doubt the right to close down its business, whatever be the reason for doing so. But at the same time it had certain obligations towards the workmen in the matter of payment of one month's notice pay, retrenchment compensation, etc. before bringing them under retrenchment. Taking into consideration the sworn testimony of the workmen, I have no reason to disbelieve their contentions that the mandatory provisions of the law has not been applied with by the management before taking the impugned action of their retrenchment especially when the management has not come forward to contest the claim in spite of due notice. The term of reference is, therefore, answered in favour of the workmen with the findings that the impugned order of their retrenchment although justified on account of the closure of the factory is not in order for want of compliance with the mandatory requirements of the law and that being so they are entitled to retrenchment compensation as provided under section 25FFF of the Industrial Disputes Act, 1947 in addition to their wages for the month of February, 1971 and the wages due in lieu of earned leave if the same have not already been paid as

contended by them. They are further entitled to Rs 200 in all as costs of the present proceedings. The award is made accordingly.

The 1st June, 1972

O. P. SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 654, dated the 5th June, 1972

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

The 5th June, 1972

O. P. SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

The 15th/16th June, 1972

No. 6557-4 Lab-72/26259.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s Fabrication and Alloyed Products, Faridabad :—

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,  
FARIDABAD

Reference No. 8 of 1972

*between*

THE WORKMEN AND THE MANAGEMENT OF M/S FABRICATION AND ALLOYED  
PRODUCTS, FARIDABAD

*Present :—*

Nemo for the workmen.

Shri R. C. Sharma, for the management.

#### AWARD

The Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred for adjudication to this Tribunal the following dispute existing between the management of M/s. Fabrication and Alloyed Products, Faridabad and its workmen.

Whether the management should fixed grades and scales of pay of the workmen ? If so, with what details ?

On receipt of the order of reference, usual notices were given to the parties and they have filed their respective written statements. The management has pleaded settlement of the above dispute, as per terms and conditions given in the memorandum of settlement dated 6th May, 1972 Ex. M. 1 on record. The workmen have not come forward to challenge this settlement and their authorised representative Shri Darshan Singh has stated that he has no instructions from the workmen to proceed with the dispute. I have gone through the Memorandum of settlement, the terms and conditions of which are found to be fair and reasonable.

In view of the above, the award is made as per the terms and conditions of the aforesaid settlement as desired by the parties. The Memorandum of settlement Ex. M. 1, Annexure 'A' shall form part of the award. There shall be no order as to costs.

Dated 5th June, 1972.

O.P. SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 653, dated 5th June, 1972.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,

Industrial Tribunal, Haryana,  
Faridabad.

Dated the 5th June, 1972.

FORM 'H'

(See Rule No. 58 of the Industrial Disputes Rules)

Memorandum of Settlement under section 18(r) of the Industrial Disputes Act, 1947.

Name of the parties	..	1. M/s. Fabrication and Allied Products, Faridabad.
		2. Workman of M/s. Fabrication Allied Products, Faridabad.
Representing management	..	Shri M. L. Virmani partner.
Representing workmen	..	Signatories to this settlement.

*Short recital*

The workmen submitted a charter of demands, dated 11th July, 1971 which were partly settled during conciliation while one of the demands in respect of the grades and scales was referred by the Government of Haryana for adjudication to the Industrial Tribunal, Haryana, Faridabad. The same has been registered as reference No. 8 of 1972. The parties have held mutual negotiation and have arrived at the following settlement :—

*Terms of the settlement.*

1. It is agreed between the parties that minimum wages as fixed by the Government for engineering industries are being implemented in all respects. The categories of the workmen have been graded in the schedule of the minimum wages and no further gratiation is needed.
2. It is agreed that the scale of pay of each category of the workman are fixed as under :—
  - (i) *Unskilled* : getting pay Rs. 100 or more will continuously get Rs. 3 as annual increment
  - (ii) *Semi-skilled 'A'* getting pay between Rs. 110 or more will continuously get Rs. 4 per year as an increment.
  - (iii) *Semi-skilled 'B'* getting Rs. 120 or more will get Rs. 5 as an annual increment continuously.
  - (iv) *Skilled 'A'* getting Rs. 145 or more will get an annual increment Rs. 6 continuously.
  - (v) *Skilled 'B'* getting Rs. 160 per month will get Rs. 7½ as an annual increment continuously in future.

These increments will fall due on 1st January every year to those workmen to have completed one year or more continuous service and these increments will not be adjustable to the increase in pay made by the Government either under revision or under the scheme of linkage with the index number.

3. It is agreed that the annual increments can be stopped by the management at their discretion in case it is found that the workman has been irregular in attendance and he committed some act of misconduct or his performance has been poor or unsatisfactory in this previous year. The management will be the sole judge of these circumstances. The management may give more increments to any worker and some will not be treated as regular feature or example.
4. It is agreed between the parties that this settlement will be binding for a period of 3 years and during this period the workmen will not raise any demand which may have financial implications and management undertakes to follow and implement all the lawful and enforceable rules and regulations and wages as may be fixed by the Government from time to time.
5. It is agreed between the parties that this settlement will be submitted to the Industrial Tribunal with the request to give an award in the terms of the settlement in reference No. 8 of 1972.

6. It is agreed that the copies of this settlement will be forwarded to the following authorities for record and registration :—

- (i) Conciliation Officer, Faridabad.
- (ii) Labour Commissioner, Haryana, Chandigarh.
- (iii) Secretary to the Government of Haryana, Department of Labour, Chandigarh.

For workmen:

For Management  
(Sd). VIRMANI,  
Partner.

(Signed on this 6th day of May, 1972 at Faridabad  
(WITNESS 1)

1. Mukand Lal
2. Rattan Singh
3. Harbhajan Singh
4. Sanwal Singh
5. Kehar Singh
6. Amar Singh
7. Balbir Singh
8. Gurcharan Lal
9. Ved Ram
10. Pander Rang
11. Bhagwati Singh
12. Dharam Vir
13. Uday Ram
14. Brij Lal
15. Ram Niwas
16. Lal Bahadur
17. Nathi Lal
18. Ramesh Chand
19. Lal Chand
20. Vasist Muni Pandey
21. Lakhapat Rai
22. Ram Chhellay
23. Hochi Ram
24. Vidya Sagar
25. Rajinder Singh

( 2.)

O. P. SHARMA,  
Presiding Officer,  
Industrial Tribunal Haryana,  
Faridabad.

The 16th June, 1972

No. 6636-4Lab-72/26456.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Kirloskar Oil Engines Ltd., Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No. 29 of 1969

*between*

THE WORKMEN AND THE MANAGEMENT OF M/S KIRLOSKAR OIL ENGINES  
LTD., FARIDABAD

*present—*

Sarvshri Tirath Singh, Shashi Bhushan, Sita Ram, Bakshi Ram, Sukhdev Raj,  
R. P. Istwal; concerned workmen with Shri Adarsh Kishore, General  
Secretary, General Engineering Mazdoor Union, Faridabad.

Shri Darshan Singh, Faridabad Engineering Workers Union.

Shri K. L. Chopra, Advocate, for the management.



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AWARD

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The workmen of M/s Kirloskar Oil Engines Ltd., Faridabad, raised a demand for linkage of dearness allowance with the costs of living index figures of Delhi which was not acceded to by the management. This gave rise to an industrial dispute which was referred for adjudication to this Tribunal by the Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, vide Order No. ID/FD/423-A/15594, dated 2nd June, 1969, the term of reference being as given under :—

Whether D. A. of the workmen be linked with the cost of living index figures of Delhi. If so, with what details and from which date ?

On receipt of the order of reference usual notices were given to the parties. The statement of claim on behalf of the workmen reiterating the above demand was filed on 15th July, 1969 under the signatures of their attorney Shri Darshan Singh who had given the demand notice leading to the reference in his capacity as President of the Faridabad Engineering Workers Union (Regd.) N.I.T., Faridabad. The management filed the written statement on 31st July, 1969 contesting the above demand of the workmen pleading inter alia that the reference was bad in law because according to the recommendations of the Wage Board appointed for the Engineering Industries, dearness allowance had to be linked up with All-India Costs of Living Index instead of the Cost of Living Index for a particular region. The following two issues were framed in the case.

- (1) Whether the present reference is bad and it can not be adjudicated upon for the reasons given in the preliminary objections and in the alternative proceedings is bound to be stayed ?
- (2) Whether D. A. of the workmen be linked with the cost of living index figures of Delhi ? If so, with what details and from which date ?

After the parties had led their evidence on the above issues, an application was moved under the signatures of Shri Sagar Ram Gupta, President, INTUC (Haryana) with the allegations that the workmen of this concern had formed their own union known as the Kirloskar Oil Engines Employees Union and they wanted this union to represent them in the reference. This application was accompanied by an authority letter purporting to have been signed by 89 workmen in favour of Shri Sagar Ram Gupta and Shri Amar Singh Sharma member working committee of INTUC (Haryana). Shri Darshan Singh opposed the above application. The following issues were framed.

- (1) Whether the Kirloskar Oil Engines Employees Union is in existence ? If so since when ? (on applicant).
- (2) If issue No. 1 is proved whether the said union has locus standi to represent the workmen of M/s Kirloskar Oil Engines, Faridabad at this stage. (on applicant).

Shri Girdari Lal Chabra, General Secretary, of the said union has come into the witness box and proved a large number of documents including the membership forms Ex. W. W. 1/1 to Ex. W. W. 1/87, certificate of registration of the union dated 30th June, 1971, Ex. W. W. 1/88, monthly membership subscription receipt books, Ex. W. W. 1/89 to Ex. W. W. 1/92. The management has led no evidence in rebuttal nor Shri Darshan Singh who had earlier represented the workmen.

I have given a careful consideration to the facts on record. The plea raised on behalf of the workmen that they have formed a separate union finds support in oral as well as overwhelming documentary evidence referred to above of which there is no rebuttal whatsoever as already observed. It appears that the workmen of this concern had no union of

their own when they raised the demand leading to the present reference. But since they have subsequently formed a union which has been got duly registered. They have a right to be represented by this union. The authority letter filed by Shri Sagar Ram Gupta along with his application to join as a party in the case purports to have been signed by as many as 89 workers. Shri Darshan Singh has not filed any authority letter to represent the workmen in the present case. The union formed by the workmen which is in existance with its President (Sh. Tirath Singh),—Vice President (Sh. Sita Ram.), General Secretary (Sh. Gir-dari Lal Chabra) and other office bearer duly elected has got to be recognised and it has not been shown as to how this union is not competent to represent the workmen. The issues are accordingly decided in favour of the workmen.

As far the validity of the reference and merits of the case no discussions are called for since the parties have entered into an amicable settlement as per clause III of the memorandum of settlement dated 26th May, 1972 and want the award to be made accordingly. Their statements have been recorded. The memorandum of settlement is signed by 8 representatives of the workmen who are office bearers of the newly formed union and had been specially authorised by the workmen to enter into the settlement with the management,—vide authority letter Ex. M-1 which is signed by as many as 102 workmen. It has, also been got witnessed by Shri M. L. Malik, Labour-cum-Conciliation Officer, Faridabad. Clause No. III of the settlement which covers the present reference is fair and reasonable manifestly not tainted with fraud, coercion, or collusion.

I, therefore, make the award as per clause III of the Memorandum of Settlement dated 26th May, 1972, Ex. M-2, Annexure 'A' which shall form part of the award. In the circumstances, there shall be no order as to costs.

O. P. SHARMA,  
Presiding Officer,

Dated the 3rd June, 1972.

Industrial Tribunal, Haryana, Faridabad.

No. 666, dated 12th June, 1972 Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,  
Presiding Officer,

Industrial Tribunal, Haryana, Faridabad.

#### ANNEXURE 'A'

Memorandum of Settlement, dated 26th May, 1972 (Clause III) between M/s Kirloskar Oil Engines Ltd., Faridabad and the workmen of M/s Kirloskar Oil Engines Ltd., Faridabad

#### 3. Dearness Allowance—

With effect from 1st April, 1972, the workmen will be paid dearness allowance as under :—

#### Basic Pay—

	D.A.
	Rs
(a) From Rs 60.00 to Rs 100.00	45.00
(b) From Rs 101.00 to Rs 200.00	50.00
(c) From Rs 201.00 to below Rs 500.00	55.00

The above increase in D.A. of Rs 15.00 in each slab is linked with Faridabad Working Class Consumer Price Index Base 1966 100 at figure 136. Revision shall be made on half yearly basis i.e., on 1st January and 1st July.

Average of the available figure for the previous six months shall be worked out and from this figure 136 will be subtracted and an increase or decrease shall be adjusted at the rate of 0.50 paise per point.

O. P. SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana, Faridabad.